

**IN THE SUPREME COURT OF MISSISSIPPI**

**NO. 2016-IA-00442-SCT**

**PHILIP A. GUNN, SPEAKER OF THE  
MISSISSIPPI HOUSE OF REPRESENTATIVES**

**APPELLANT**

**V.**

**REPRESENTATIVE J.P. HUGHES, JR.**

**APPELLEE**

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**RESPONSE TO AMICUS CURIAE BRIEF OF TATE REEVES**

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**On Interlocutory Appeal  
From the Circuit Court of Hinds County, Mississippi  
First Judicial District**

S. RAY HILL, III (MSB #100088)  
rhill@claytonodonnell.com  
CLAYTON O'DONNELL, PLLC  
P.O. Drawer 676  
Oxford, MS 38655  
Telephone: (662) 234-0900  
Facsimile: (662) 234-3557

*Counsel for Appellee*

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## **ARGUMENT**

Tate Reeves is the Lieutenant Governor of the State of Mississippi (“Reeves”). Reeves filed an *amicus curiae* brief in support of the Appellant, Philip A. Gunn, who is the Speaker of the House of Representatives (“Speaker Gunn”). Reeves argues that this Court does not have jurisdiction over this dispute. Reeves alternatively claims that even if this Court does have jurisdiction, it should choose not to exercise its jurisdiction in this case. Both arguments are not well taken.

### **I. Jurisdiction Exists**

Reeves asserts that *Hunt v. Wright* deprives this Court of jurisdiction to hear this dispute because the constitutional provision at issue, Article 4, Section 59 of the Mississippi Constitution of 1890, is contained in a subsection of the Constitution entitled *Rules of Procedure*. Reeves cites *Hunt* for the proposition that this Court has no power to hear any dispute over any provision contained in that subsection. *Hunt*, however, does not go that far.

In fact, the Court in *Hunt* stated that an alleged violation of certain provisions contained in the subsection *Rules of Procedure* *were* subject to judicial review.<sup>1</sup> *Hunt v. Wright*, 11 So. 608, 610 (Miss. 1892). Of course, in *Hunt*, the Court never addressed Article 4, Section 59 of the Mississippi Constitution of 1890. For that reason, *Hunt* does not mandate that this Court refuse to exercise its jurisdiction.

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<sup>1</sup>Article 4. § 61. Miss Const. (1890)

Article 4. § 63. Miss Const. (1890)

Article 4. § 64. Miss Const. (1890)

Article 4. § 75. Miss Const. (1890)

The first case to address an alleged violation of Article 4, Section 59 of the Mississippi Constitution was *Tuck v. Blackmon*, 798 So. 2d 402 (Miss. 2011). In *Tuck*, the Court held that if a legislative body exercises its responsibilities in a “manifestly wrong manner that does critical harm to the legislative process,” judicial intervention is justified. *Tuck*, 798 So. 2d at 407. *Tuck* even set forth a two part test for when the judiciary should get involved in a case such as the one at bar. This Court held that it will exercise jurisdiction if there is (a) a grossly unreasonable interpretation of the Constitution or manifestly wrong exercise of constitutional authority that (b) does substantial harm to the legislative process. *Id.* at 407-408.

For this reason, Reeves’ position that this Court does not have the ability to hold Speaker Gunn liable for a violation of Section 59 runs contrary to Mississippi law.

## **II. This Court Should Exercise Jurisdiction.**

Having bills played at an incompressible speed is a grossly unreasonable interpretation of Section 59 the Constitution. No one in his or her right mind could characterize Speaker Gunn’s actions as a reasonable interpretation of Section 59. Speaking gibberish is not reading.

Regardless of his so called “interpretation” of the constitutional text, Speaker Gunn can still be held liable for a *manifestly wrong exercise of his constitutional authority*. Speaker Gunn has made a mockery of the legislative process and his clear denial of a member’s constitutional right to have bills read prior to a final vote is the very definition of doing *substantial harm to the legislative process*. How can Speaker Gunn take another member’s constitutional rights away and not grossly exceed his constitutional authority? How can Speaker Gunn take another member’s constitutional rights away and not substantially harm the very Constitution he has sworn to uphold? Enough is enough. Speaker Gunn must be held accountable.

As indicated in Rep. Hughes's original brief, this Court can take judicial notice of Speaker Gunn's blatant disregard of Article 4, Section 59 of the Mississippi Constitution of 1890 and enjoin him from further violations. What it cannot do at this stage of the proceedings is simply throw Rep. Hughes out of Court. Rep. Hughes has the right to proceed to a full hearing on the merits in the lower Court and has been denied the opportunity to do so up to this point.<sup>2</sup>

Reeves wants this Court to deny Rep. Hughes his constitutional right under the *Fourteenth Amendment* to the United States Constitution to pursue this case in the lower courts. As his *amicus* brief makes clear, Reeves is nervous about the possibility of this Court and the lower Court holding Speaker Gunn and him accountable for their actions. Reeves suggests that if Rep. Hughes is allowed to proceed with his case, the "flood gates" of litigation will open and that he will be forced to defend himself at every turn in the Courts. Reeves is simply "crying wolf."<sup>3</sup>

In any event, if Speaker Gunn and Reeves are truly worried about having to answer for their actions in a court of law, they should refrain from blatantly violating the Mississippi Constitution of 1890 in the future.

## CONCLUSION

Contrary to the allegations made in his *amicus* brief, neither Reeves nor Speaker Gunn is the final authority on what the Constitution requires. In this time of heated partisanship, when

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<sup>2</sup> Reeves and Speaker Gunn fail to understand the difference between a Temporary Restraining Order ("TRO") under M.R.C.P. 65 (a), and Rep. Hughes' case on the merits. The TRO has been dissolved and that issue is moot since the Legislature is not in session. Reeves is asking this Court to put the "cart before the horse," and hold that Hughes was required to prove his case on the merits at the TRO hearing. That is not the law and not the purpose of Rule 65 (a), which is simply a mechanism to prevent continued abuses prior to a hearing on the merits. Hughes has never been afforded a hearing on the merits.

<sup>3</sup> Reeves argues that should Rep. Hughes be allowed to pursue his case, he will be forced to defend himself over alleged violations of Senate Rules. This is the major disconnect between Reeves's position and the issue on appeal. This appeal deals with the Constitution of 1890, not internal Senate rules.

full debate and transparency are pushed aside in favor of authoritarian tactics, such as those utilized by Speaker Gunn in this case, our democracy depends on a strong Court to uphold the requirements of the Constitution. Reeves and Speaker Gunn are not above the law and should not be given cart blanche authority to disregard their constitutional obligations.

This the 30<sup>th</sup>, day of June, 2016.

Respectfully Submitted,

J.P. Hughes, Jr., Appellee

*s/S. Ray Hill, III*

S. RAY HILL, III MSB #100088

Clayton O'Donnell, PLLC

1300 Access Road, Suite 200

Oxford, Mississippi 38655

Telephone: (662) 234-0900

Facsimile: (662) 234-3557

Email: rhill@claytonodonnell.com

*Attorney for Appellee*

## **CERTIFICATE OF SERVICE**

I, S. Ray Hill, III hereby certify that I electronically filed the foregoing with the Clerk of the Court using the MEC system which sent notification of such filing to the following:

**Michael B. Wallace, Esq.**  
**Rebecca L. Hawkins, Esq.**  
**Charles Edward Cowan, Esq.**  
*Wise Carter Child & Caraway, P.A.*  
401 East Capitol Street  
Heritage Building, Suite 600  
Jackson, MS 39201  
*Attorneys for Appellant*

**Mark W. Garriga, Esq.**  
**Patrick Ryan Beckett, Esq.**  
**Robert M. Frey, Esq.**  
*Butler Snow*  
Renaissance at Colony Park  
1020 Highland Colony Parkway, Suite 1400  
Ridgeland, MS 39157  
*Attorneys for Tate Reeves*

I also mailed a copy of the foregoing, via US Mail, to the following:

**Honorable Winston L. Kidd**  
P.O. Box 327  
Jackson, MS 39205

This the 30th day of June, 2016.

*s/S. Ray Hill, III*  
S. RAY HILL, III MSB #100088